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**Subject:** Cross-Cutting Issues News for May 31, 2013



## Cross-Cutting Issues News for May 31, 2013

### **Bloomberg Daily Environment Report™ BNA**

#### *Air Pollution*

##### **EPA Proposal Exempts Tribal Permit Requirements**

The Environmental Protection Agency is proposing to exempt seven source categories, including emergency generators and small furnaces, from minor new source review permitting requirements in Indian territory, according to a proposed...

#### *Climate Change*

##### **Obama Expresses Willingness to Work With Republicans on Shaping Climate Policy**

President Obama said May 29 he is willing to consider new policy approaches for addressing climate change and would work with Republicans on solutions, including market-based methods....

#### *Drilling*

##### **Scientists Call for Better Data to Estimate Shale Gas Impacts on Atmosphere, Water**

Regulators and scientists need far better information on what is actually happening in natural gas fields and throughout gas transportation and processing if they are to do a good job of assessing the environmental and health risks of shale...

#### *EPA*

##### **Group Files Lawsuit Over Text Messages From Nominee for EPA Administrator**

The Competitive Enterprise Institute filed a lawsuit May 29 seeking a federal court order to require the Environmental Protection Agency to turn over text message from Gina McCarthy, the nominee for EPA administrator (Competitive Enterprise...

#### *General Policy*

##### **California Senate Unanimously Passes Bill To Modernize State Environmental Quality Act**

LOS ANGELES—The California Senate has passed legislation (S.B. 731) to streamline the review process for clean energy and other development projects under the California Environmental Quality Act....

#### *Oil Spills*

##### **EPA, Coast Guard to Consider Impact Of Oil Spill Dispersants on California Wildlife**

The Environmental Protection Agency and the U.S. Coast Guard have agreed to consider how toxic dispersants used in response to oil spills off the California coast impact endangered species and their habitats (Center for

*Pesticides*

**EPA Finalizes Program to Permit Off-Label**

**Emergency Pesticide Use on Tribal Lands**

The Environmental Protection Agency announced May 29 that it has finalized a program that will allow pesticide applicators on tribal lands to utilize emergency exemptions and special local need registrations....

*Regulatory Policy*

**House Republicans Add EPA, DOT**

**Regulatory Proposals to Watch List**

House Republicans highlighted four proposed rules May 29 as potentially troublesome to small business, including an Environmental Protection Agency regulation on air pollution from motor vehicles....

*Regulatory Policy*

**Texas Expands Protection to Property Owners**

**Who Voluntarily Disclose Compliance Issues**

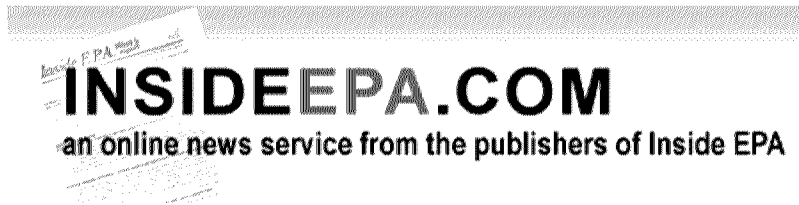
AUSTIN, Texas—Protections to new property owners in Texas who voluntarily report environmental, health, or safety compliance issues discovered during the sale of facilities will be expanded effective Sept. 1 following Gov. Rick...

*Water Resources*

**California Releases Cost Estimates**

**Of Bay-Delta Conveyance, Conservation Plan**

LOS ANGELES—Implementing the proposed Bay Delta Conservation Plan, which includes a new water conveyance system for the Sacramento-San Joaquin River Delta, will cost an estimated \$24.5 billion over 50 years, based on 2012 dollars,...



Inside EPA Weekly Report, 5/31/13

<http://insideepa.com/Inside-EPA/Inside-EPA-05/31/2013/menu-id-67.html>

**EPA Officials, Advisors Question Children's Study Design Changes**

EPA officials and children's health advisors are raising concerns that ongoing changes to the study design of the National Children's Study (NCS) may prevent the large, longitudinal study from meeting its original goals of assessing American children's health and the environmental factors that could affect normal development and longevity.

**Industry Steps Up Push To Intervene In EPA 'Sue-And-Settle' Suits**

Industry groups are stepping up their efforts to win the right to intervene in so-called "sue-and-settle" suits where EPA settles environmentalists' litigation by setting deadlines for new or pending rulemakings, appealing a test case before a key appellate court and stepping up calls for Congress to pass legislation granting them intervention rights.

**Advisors, Stakeholders Urge EPA To Delay EDSP Fixes For Full Data Review**

EPA's science advisors and key stakeholders are recommending that the agency not alter the framework for its Endocrine Disruptor Screening Program (EDSP) until agency staff completes its review of all of the data received from the first round of test orders it issued in 2009, rather than the partial review completed prior to the advisors' meeting.

## **EPA IG Plans Limited Response To Democrats' Climate Change Inquiry**

EPA's Inspector General (IG) has agreed to assess how well the agency has improved the energy efficiency of its facilities as a way to cut greenhouse gas (GHG) emissions, in response to an inquiry from congressional Democrats, but is deferring to EPA on the lawmakers' request to assess the most effective way the agency could use its powers to cut GHG emissions and improve climate resiliency.

### **Latest Blogs**

## **EPA Union Seeks Arbitration Over Staff Furloughs**

EPA union officials are bringing a formal arbitration action over the agency's use of furloughs to meet more than \$425 million in budget sequestration reductions, . . .

# Greenwire

## **GRAND CANYON:**

### **Federal claims court dismisses mining company complaint about administration limits**

Manuel Quinones, E&E reporter

Published: Thursday, May 30, 2013

A federal judge has dismissed a mining company's complaint against the Obama administration over its mining limits on 1 million acres around Grand Canyon National Park.

Judge Susan Braden with the U.S. Court of Federal Claims dismissed a complaint by Vane Minerals LLC seeking more than \$80 million in compensation and damages.

Even though the withdrawal only bars new mining claims, Vane argued that it also effectively halted development of its existing claims.

But Braden said the court didn't have jurisdiction to weigh Vane's claims because the company was once a party to a similar lawsuit still pending in Arizona U.S. District Court.

Vane attorneys argued in a January filing that the company had moved to drop its Arizona claim to focus on the Federal Claims litigation.

"Moreover," they wrote, "the action is ripe because the Northern Arizona Withdrawal Order is a final administrative decision, from which VANE's causes of action and damages arise, and because mineral examinations of VANE's individual claims are not necessary to discern VANE's actionable harm."

But Braden ruled yesterday, "It is uncontested that the September 27, 2012 Complaint was based on substantially the same operative facts as Plaintiff's actions in the United States District Court for the District of Arizona."

She added that Vane leaving the Arizona case "occurred too late to cure the jurisdictional impediment" in the Federal Claims case.

A Vane attorney did not respond to a request for comment about the company's next steps in time for publication.

## **BRISTOL BAY:**

# Pebble mine would create thousands of jobs, millions in tax revenue -- report

Manuel Quinones, E&E reporter

Published: Thursday, May 30, 2013

The potential Pebble LP gold and copper mine in southwestern Alaska could help support more than 16,000 jobs across the country during construction and generate an annual capital investment of more than \$1 billion for five years, according to a report commissioned by the company.

The study by well-known consulting and analysis firm IHS Global Insight is meant as a counterbalance to a previous analysis commissioned by mine opponents released earlier this month, which tried to quantify the national economic benefits of Bristol Bay's salmon fishery.

IHS, in its 69-page [document](#), said the Pebble mine could support almost 5,000 jobs in Alaska during construction and about 2,890 during years five through 29.

Nationwide, the mine could help support more than 16,000 jobs during construction and more than 14,700 during operations. That includes indirect and "induced" jobs, which IHS defines as benefiting from the spending of wages related to the Pebble project.

"Pebble is a substantial multibillion-dollar state asset as shown by this report, which provides great insight regarding the long-term positive economic impacts the project could have for the region, state and the lower 48," Pebble CEO John Shively said in a statement.

"For perspective," he added, "the report indicates Pebble development alone would pay more in annual taxes to the state than the entire fishing industry combined. This clearly shows Pebble development could be an important economic driver for Alaska's future."

IHS argues that the mine would contribute up to \$180 million a year in taxes and royalties for the state, and more than \$1 billion to the gross state product. The report also predicts a 600 percent increase in new tax revenue for the Lake and Peninsula Borough.

The study from mine opponents, commissioned by the Bristol Bay Regional Seafood Development Association and conducted by the University of Alaska Institute of Social and Economic Research, says the Bristol Bay salmon fishery contributes more than \$1 billion to the national economy and helps support roughly 10,000 jobs ([E&ENews PM](#)

, May 9).

The dueling studies come as U.S. EPA prepares to close the comment period on its revised draft watershed assessment of potential large-scale mining in the Bristol Bay watershed.

The company and its allies have dismissed EPA's conclusions and models for a potential mine. Mine opponents, including fishing groups, are hoping the agency uses that document to pre-emptively block key permits, arguing that a large mine can't coexist with the fish.

"What Pebble doesn't talk about is that their 'cost of operations' also includes killing 14,000 jobs, destroying a \$1.5 billion American industry, and generating up to 10 billion tons of toxic waste that they may or may not be around to deal with," Bob Waldrop, executive director of the Bristol Bay Regional Seafood Development Association, said in a statement responding to the IHS report.

"Further," he said, "it's deeply ironic that the Pebble Partnership would use a hypothetical mine plan for this study, when they spend much of their time saying they don't have a mine plan to evaluate. Pebble CEO John Shively has said any analyses out there are based on a 'fantasy mine plan,' so that would make these fantasy jobs."

Shively said the study provides "context" for the kind of benefits the project will generate, even though plans are not final.

"While we are still finalizing our initial development plan for Pebble, this [IHS study] starts to give us some context about the project from an economic perspective," Shively said.

He added, "We are continuing our work on the environmental package for the mine, which is one of most critical design elements. We look forward to sharing our plan with Alaskans later this year."

## CALIFORNIA:

### Draft analysis weighs costs, benefits of \$24.5B Bay-Delta restoration

Debra Kahn, E&E reporter

Published: Thursday, May 30, 2013

California officials released a draft cost-benefit analysis yesterday of a 50-year restoration effort in the Sacramento-San Joaquin Delta that they say justifies the project's \$24.5 billion price.

The Bay Delta Conservation Plan would affect water deliveries to about 25 million people in a sprawling ecosystem. The plan under consideration by state and federal agencies would divert river water to tunnels to lessen stress on threatened species, including the delta smelt and chinook salmon, while sending water south to farms and cities.

"California's current water supply system is clearly vulnerable to many threats, and the cost of its failure would be enormous," said John Laird, secretary of the state Natural Resources Agency. He pointed to possible earthquakes and sea-level rise and last year's Superstorm Sandy as reasons to invest in infrastructure. "As public officials," he said, "we are duty-bound to address these threats."

The analysis is aimed at bolstering the case for the state's plan to build two 35-mile water tunnels that would cost about \$14.5 billion in 2012 dollars.

The plan also calls for spending \$5.2 billion on environmental improvements and \$4.8 billion for operational costs.

In return, the report says, the project would provide about \$5 billion in net benefits over a 50-year period for the agricultural and urban water districts that would foot most of the bill.

A broader analysis of statewide economic effects is due out in July.

The Interior Department expressed support for the plan and urged the state to move quickly to get the project rolling.

"The Obama administration is arm in arm with you," said Letty Belin, counselor to the deputy secretary of the Interior.

The document, still in draft form, will underpin an official plan coming out in October that will mark the beginning of the public comment period under state and federal endangered species laws. It foresees construction beginning in 2015 and ending by 2025.

The analysis doesn't change the debate for backers and foes of the joint state-federal plan. They are still awaiting details on how the tunnels will operate and how much water will be drawn from the delta.

Environmentalists said the analysis shortchanged alternatives that could take less water, while water districts said it still wasn't clear whether it would be worth the money.

The state's preferred alternative hasn't narrowed down exactly how much water would be exported -- and the low end of the range, 4.7 million acre-feet per year, might be too low to justify the cost, one water agency official said.

"That would not be adequate to support the kind of capital investment required," said Jason Peltier, deputy general manager of the Westlands Water District, which supplies water to farmers in the San Joaquin Valley. "That's my gut."

Delta water exports have averaged 5.3 million acre-feet over the past 20 years but can vary widely based on hydrological conditions and pumping restrictions needed for endangered fish.

Westlands is currently receiving 20 percent of its water allocation from the federally run Central Valley Project, and farmers are having to buy water at \$400 per acre-foot, up from \$150 per acre-foot normally, Peltier said.

The plan envisions water contractors paying for 68 percent of the tunnel construction and habitat restoration with the rest of the money being paid by state and federal sources. California voters would be asked as early as next year to approve two bonds to fund the project. About \$2.7 billion would come from the federal Bureau of Reclamation.

## Debating the project

Five House Democrats from the delta region are holding a press conference today to air their concerns and call for more input from delta residents.

"Now that many of the details of the BDCP are public, we have seen the true magnitude of the damage that the BDCP will bring," said Reps. Doris Matsui, Jerry McNerney, Mike Thompson, John Garamendi and Ami Bera.

Garamendi has floated an alternative proposal, emphasizing conservation, recycling and additional storage facilities rather than just one large conveyance project, similar to one put forth by the Natural Resources Defense Council.

Last week, 13 lawmakers from Southern and Central California urged Gov. Jerry Brown (D) and Interior Secretary Sally Jewell to move forward with the BDCP. Sen. Dianne Feinstein (D), Rep. Grace Napolitano (D), Rep. Jim Costa (D) and others pointed to continued investment in storage and recycling as reasons to ensure water supply reliability.

"California's economic and social future is directly tied to a safe supply of reliable, high quality water and we cannot go in with half measures when it comes to water reliability or environmental sustainability," they wrote.

University of California, Berkeley, resource economist David Sunding, who worked on the analysis with the Brattle Group consulting firm, said the alternative meant to represent the NRDC plan, which would include a tunnel that transports 3,000 cubic feet of water per second, didn't fare well in his study.

"Not only is it worse than the BDCP, it's actually worse than doing nothing," he said. Economies of scale mean the savings from downsizing the tunnel to transport 3,000 cubic feet per second don't add up, he said. "You save about \$3 billion, but you give up about half-a-million acre-feet. ... It's kind of turning the dial too far in one direction."

Environmentalists said the alternative didn't represent NRDC's full plan, as it doesn't account for the part of their plan that invests the savings from a smaller tunnel into water conservation and storage (*Greenwire*, Jan. 18).

"It's not an analysis of the portfolio alternative, so I don't think it's relevant to the actual costs and benefits of the portfolio alternative," NRDC senior attorney Kate Poole said. She said she hoped Brown would take a more active role as the plans advance.

"It's not clear that the governor himself has engaged much on these issues," Poole said. "We're hopeful when he does, some more promising options will be put on the table."

## **ENDANGERED SPECIES:**

### **Enviro groups challenge DOJ's policy on protected animal killings**

Published: Thursday, May 30, 2013

Environmentalists are challenging a Justice Department policy that allows its prosecutors to take action against people who kill endangered wildlife only when they knew the target was protected.

The "McKittrick" policy has stymied criminal prosecutions of dozens of people who have killed grizzly bears, highly endangered California condors, whooping cranes and Mexican wolves, environmentalists argue.

The policy came after Chad McKittrick was convicted in 1995 of violating the Endangered Species Act when he killed a wolf that he said he thought was a wild dog. McKittrick appealed his case and lost, though DOJ began requiring its prosecutors to prove perpetrators knowingly killed a protected species.

WildEarth Guardians and the New Mexico Wilderness Alliance said they plan to file the suit today in the U.S. District Court in Arizona (Julie Cart, *Los Angeles Times*, May 29). -- WW

## **CLIMATE:**

### **Think tank considers geoengineering as solution to warming**

Published: Thursday, May 30, 2013

The world should start researching ways to reflect the sun's rays back into space as an insurance policy against catastrophic global warming, according to a panel of experts convened yesterday in Washington, D.C., by the American Enterprise Institute.

The conservative think tank has raised the hackles of some on the right by entertaining the idea of a carbon tax. But panelists yesterday noted that any strategy to limit emissions is likely to be hard-won and to come too late to stave off at least some of the effects of climate change.

And coupled with the uncertainty over how high human emissions could push atmospheric warming -- the Intergovernmental Panel on Climate Change expects current emissions levels to push temperatures higher by as much as 4.5 degrees Celsius -- nations should begin to arm themselves with alternative tools, including geoengineering, panelists said.

"Regardless of where you are on climate change, the one thing you know about politics is that politicians almost never make the right choices," said AEI senior fellow Kevin Hassett, who convened the panel. If the world "wakes up" one day to catastrophic climate change, it will want to have a means of bringing down temperatures relatively quickly and easily, he said.

The panel coincided with the release of a new [report](#) by Lee Lane of the Hudson Institute and Eric Bickel of University of Texas, Austin, that explores solar radiation management (SRM) as a tool for limiting high levels of warming. The process involves adding to the natural sulfuric acid content of the lower stratosphere, which already deflects solar radiation, offsetting a portion of global warming.

The paper and panel noted that some interested parties may be skeptical of SRM or of alternative efforts to remove carbon dioxide from the atmosphere because they may appear to let major emitters off the hook for their contribution to climate change.

Another problem is how to reach a global consensus on how and whether to use geoengineering, given that different countries have different preferences and vulnerabilities around warming and different reservations about human intervention in the climate.

"My judgment is that SRM is a pretty hard policy to actually put in place," Bickel said. "It's not nearly as easy as one would suggest by just looking at the relatively easy engineering costs."

But despite the difficulties in implementing SRM, it does offer some things that carbon mitigation does not, even if the international community were to find a way to move forward quickly with a new treaty. While stabilizing and reducing atmospheric carbon dioxide levels would take years -- or centuries -- SRM can work fairly quickly. This was demonstrated in 1991, when Mount Pinatubo erupted in the Philippines, spewing sulfur into the atmosphere. The eruption had a tangible impact on water temperatures for at least a year afterward.

University of Maryland economics professor Thomas Schelling lamented that scientists were not equipped to learn from the eruption, which might have provided insight into how sulfur emissions can be deployed to lower temperatures, how they mix with the atmosphere, and what their environmental and climatic effects might be.

Researchers must now answer those questions and others through experiments that might last for decades. The world must also begin to decide how geoengineering will be regulated, and what institutions will govern its deployment, Schelling said.

*[CLIMATEWIRE -- FRI., MAY 31, 2013 -- Read the full edition](#)*

## **1. WEATHER: Lightning may hold the key to earlier tornado warnings**

On the day the devastating tornado hit Moore, Okla., Robert Marshall sat glued to the news, watching images of the deadly twister on CNN while he also monitored it on his computer.

## **2. TRANSPORTATION: Automated vehicles, talking cars pose policy questions**

Vehicles that speak to each other and drive themselves are expected to revolutionize modern-day transportation and reduce emissions in traffic-clogged cities. But while these technologies are advancing quickly, they could be suddenly stalled by a set of policy decisions.

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### **TODAY'S STORIES**

3. BUSINESS: Buffett's power company offers \$5.6B for Nev. utility
4. FOOD SECURITY: FAO warns that jellyfish could devastate fish stocks
5. POLICY: U.N. panel predicts voluntary climate plan will derail effort to end poverty
6. TRANSPORTATION: Tesla accelerates build-out of its recharging network
7. RENEWABLE ENERGY: New EIA study details state action on feed-in tariffs
8. GLACIERS: Switzerland's receding glaciers leave surrounding mountains unstable
9. COAL: Va. coal plant to switch to natural gas
10. BIOFUELS: Major ethanol producer asks court to overturn Calif. low-carbon fuel rule
11. CHINA: Coal use will push emissions up by 40% by 2020, report says

ENERGYWIRE -- FRI., MAY 31, 2013 -- Read the full edition

## **1. TRANSPORT: Is rail-bound crude oil a disaster waiting to happen?**

The U.S. shale oil and gas boom has brought business to railroads still reeling from declining coal shipments. But as freight operators such as Warren Buffett's Burlington Northern Santa Fe LLC (BNSF) breathe a sigh of relief, some are feeling uneasy about oil companies' rush to the train tracks.

### **THIS MORNING'S STORIES**

2. WORKFORCE: Dearth of women, retention problems still plague Big Oil despite progress
3. CALIFORNIA: Assembly kills fracking moratorium bill, advances measure imposing new rules
4. ILLINOIS: Landmark fracking bill passes with broad support
5. MARCELLUS SHALE: Cabot study says natural methane 'ubiquitous' near Dimock, Pa.
6. NATURAL GAS: Fuel is 'one heckuva long bridge' -- ANGA chief
7. NATURAL GAS: Private equity looks past Chesapeake-style shale binge to safer bets
8. NATIONS: Italy goes from olive oil to crude oil
9. PENNSYLVANIA: Drilling boom fuels push for natural gas vehicles
10. NATURAL GAS: Ohio royalty disputes put Chesapeake in hot water
11. PIPELINES: Public survey throws wrench into expansion plans for Canada oil lines

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